

## Article - Health - General

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§15–137.

(a) The Department may not deny an individual access to a home– and community–based services waiver due to a lack of funding for waiver services if:

(1) (i) The individual is living in a nursing facility at the time of the application for waiver services;

(ii) At least 30 consecutive days of the individual’s nursing facility stay are eligible to be paid for by the Program;

(iii) The individual meets all of the eligibility criteria for participation in the home– and community–based services waiver; and

(iv) The home– and community–based services provided to the individual would qualify for federal matching funds; or

(2) (i) The individual is living at home or in the community at the time of the application for waiver services;

(ii) The individual received home– and community–based services through Community First Choice for at least 30 consecutive days;

(iii) The individual will be or has been terminated from participation in the Program on becoming entitled to or enrolled in Medicare Part A or enrolled in Medicare Part B;

(iv) The individual meets all of the eligibility criteria for participation in the home– and community–based services waiver within 6 months after the completion of the application; and

(v) The home– and community–based services provided to the individual would qualify for federal matching funds.

(b) Nothing in this section is intended to result in a reduction of federal funds available to the Department.

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